

subscriber's telephone bill that the subscriber could then assign either to the incumbent LEC or to a competing local carrier—is intended to make the program competitively neutral. The Notice requests comment on (1) whether the existence of local service competition should be prerequisite for distributing assistance through a high-cost credit system, (2) whether eligibility for high-cost assistance should depend upon a carrier's assuming minimum service requirements, (3) how best to distribute assistance to carriers that have not been subject to the Commission's separations rules, and (4) the significance of subscriber need in determining high-cost credits.

Besides requesting comment on a high-cost credit system, the Notice sets forth for comment three primary approaches to reform of the USF. The first of these would modify the USF while continuing to base assistance on carrier's reported costs. If this "reported costs" approach is adopted, the Notice proposes, at a minimum, three reforms: (1) require carriers to calculate the costs and number of loops in a study area based on all loops served by affiliated companies in the same state, (2) exclude administrative costs from the loop costs that form the basis for high-cost assistance, and (3) base assistance on the average number of lines in a study area over a year, rather than the number of lines at the end of the year.

In addition to these reforms, the Notice seeks comment on reforming the "reported costs" approach by adopting one or more of the following measures: (1) increase the threshold for receiving assistance, (2) reconsider the current rules' distinctions between small and large study areas, (3) eliminate assistance to LECs receiving minimal assistance per line per month, and (4) adopt a permanent indexed cap. The Notice also requests comment on whether to implement the use of high-cost credits in a "reported costs" system, and whether to base high-cost assistance on local switching and loop costs combined, thereby combining the DEM weighting and USF programs.

The second primary approach would base assistance not on carriers' reported costs, but instead on objectively ascertainable factors that would serve as proxies for the cost of providing service. Using proxy factors rather than reported costs would encourage recipients to control their costs, and would further the policy of competitive neutrality. The Notice seeks comment on four proxy factors: (1) subscriber density per square mile, (2) average distance from the nearest wire center, (3) terrain, and (4)

climate. The Notice also seeks comment on whether it is advisable to incorporate local switching costs into the proxy model, and whether the use of a proxy methodology should be limited to the larger LECs.

The third primary approach would allow State utility commissions significant control over distribution of the USF. The Notice proposes a three-step process. First, proxy factors would be used to determine the amount of high-cost assistance allocated for distribution within each State. Second, within each State, the State utility commission would decide, in accordance with general guidelines adopted by the Commission, the process for allocating the assistance among the carriers serving high-cost areas. Third, the Commission would review the distribution plans filed by the State commissioners. The Commission would prescribe a default mechanism for States that decline to participate in the distribution process.

#### **Notice of Inquiry: Comment Requested Regarding the Need for Further Rulemaking**

##### *Market-based Incentives to Reduce the USF Through Least-cost Bidding*

The NOI sets out for comment a possible methodology to harness market forces to reduce the size of the USF once competition for local phone service is established. Local service providers would reverse-bid to set the amount of USF assistance, with the lowest bidder setting the level of subsidy per subscriber in an area for all carriers serving that area. To encourage carriers to bid, the winner would receive an additional incentive or bonus, such as a percentage of the savings to the fund. To bid, carriers would have to serve as an essential carrier, or "carrier of last resort," by providing ubiquitous service at a reasonable rate within the specified area.

More generally, the NOI solicits suggestions, information, and analyses regarding the appropriate long-term treatment of universal service issues in the light of rapidly-changing technologies and advances in competitive markets.

#### **Regulatory Flexibility Act**

In the Notice the Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because, if the proposals in this proceeding are adopted, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of

the Regulatory Flexibility Act.<sup>5</sup> Because of the nature of local exchange and access service, the Commission has concluded that LECs, including small LECs, are dominant in their fields of operation and therefore are not "small entities" as defined by that act.<sup>6</sup> The Secretary has sent a copy of this Notice of Proposed Rulemaking, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of that act.<sup>7</sup>

#### **Ordering Clauses**

Accordingly, it is ordered that, pursuant to Sections 1, 4(i), 4(j), 403, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 403 and 410(c), notice is hereby given of proposed amendments to Part 36 of the Commission's Rules, 47 CFR Part 36, as described in this Notice of Proposed Rulemaking.

It is further ordered that, pursuant to Section 410(c) of the Communications Act of 1934, 47 U.S.C. § 410(c), the proposals set forth in the Notice of Proposed Rulemaking are hereby referred to the Federal-State Joint Board established in this proceeding for the preparation of a recommended decision.

It is further ordered that, pursuant to Sections 1, 4(i), 4(j), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(1), 154(j), and 403, notice is hereby given of the initiation of a Notice of Inquiry regarding the need for further rulemaking to address the use of a competitive bidding process to establish levels of high cost assistance, and regarding the appropriate long-range treatment of universal service issues.

#### **List of Subjects in 47 CFR Part 36**

Communications common carriers, Jurisdictional separations procedures, Reporting and recordkeeping requirements, Telephone, Universal system of accounts.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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<sup>5</sup> 5 U.S.C. § 601(3).

<sup>6</sup> See MTS and WATS Market Structure, 93 FCC 2d 241, 338-39 (1983).

<sup>7</sup> 5 U.S.C. § 603(a).

**47 CFR Part 76**

[CS Docket No. 95-143; DA 95-1881]

**Cable Television Service; List of Major Television Markets****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Commission, through this action, invites comments on its proposal to amend its rules regarding the listing of major television markets, to change the designation of the Pittsburgh, Pennsylvania television market to include the community of Greensburg, Pennsylvania. This action is taken at the request of Cornerstone Television, Inc., licensee of television station WPCB-TV, channel 40, Pittsburgh, Pennsylvania and it is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

**DATES:** Comments are due on or before October 31, 1995 and reply comments are due on or before November 15, 1995.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** William H. Johnson, Cable Services Bureau, (202) 416-0800.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, CS Docket 95-143, adopted August 30, 1995 and released September 8, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW, Washington, D.C. 20554.

**Synopsis of the Notice of Proposed Rule Making**

1. The Commission, in response to a Petition for Rule Making filed by the petitioner, proposed to amend Section 76.51 of the Rules to add the community of Greensburg to the Pittsburgh television market.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination: (1) The distance between the existing designated communities and the community proposed to be added to the designation; (2) whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area; (3) the presence of a clear showing of a

particularized need by the station requesting the change of market designation; and (4) an indication of benefit to the public from the proposed change. Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rule making process, including the comments of interested parties. It appears from the information before the Commission that the television stations licensed to Pittsburgh, Pennsylvania do compete throughout much of the proposed combined market area, and that sufficient evidence has been presented tending to demonstrate commonality between the proposed communities to be added to the market designation and the market as a whole that "hyphenation" of the market should be proposed. Moreover, the petitioners' proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market. accordingly, comment is requested on the proposed addition of Greensburg to the Pittsburgh, Pennsylvania television market.

**Initial Regulatory Flexibility Analysis**

4. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. A few cable television system operators will be affected by the proposed rule amendment. The Secretary shall send a copy of this *Notice of Proposed Rule Making*, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

**Ex Parte**

5. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

**Comment Dates**

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before October 31, 1995, and reply comments on or before November 15, 1995.

All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

7. Accordingly, this action is taken by the Deputy Chief, Cable Services Bureau, pursuant to authority delegated by Section 0.321 of the Commission's Rules.

**List of Subjects in 47 CFR Part 76**

Cable television.

Federal Communications Commission

**William H. Johnson,***Deputy Chief, Cable Services Bureau.*

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**DEPARTMENT OF DEFENSE****48 CFR Part 225****Defense Federal Acquisition Regulation Supplement; Applicability of Trade Agreements****AGENCY:** Department of Defense (DoD).**ACTION:** Proposed rule with request for comment.

**SUMMARY:** The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to provide that the value of an acquisition for purposes of determining the applicability of both NAFTA and the Trade Agreements Act is the total estimated value of all end products subject to the acts.

**DATES:** *Comment Date:* Comments on the proposed rule should be submitted in writing to the address below on or before November 7, 1995, to be considered in the formulation of the final rule.